

IN THE HIGH COURT OF JUDICATURE AT PATNA  
Cr.Misc. No.28259 of 2006  
ALOK KUMAR SINHA  
Versus  
STATE OF BIHAR & ANR

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For the Petitioner : Mr. S. D. Sanjay, Adv.,  
: Mr. Suraj Samdarshi Adv.,  
For the State : Mr. Gopesh Kumar, APP.  
For opposite party : Smt. Meera Kumari Adv.

6. 12.5.2008. This application under Section 482 Cr.P.C. has been filed to quash the order dated 28.12.2005 passed by Sri Saroj Kumar, Judicial Magistrate, Patna in Complaint Case No. 1999(C)/2004 thereby cognizance under section 406 and 120(B) of the Indian Penal Code has been taken against this petitioner and others.

The facts as disclosed are that M/s Magadh Colonizers approached the State Bank of Bikaner & Jaipur for loan. The loan was sanctioned in its favour on the security of documents deposited by M/s Magadh Colonizers. Later on M/s Magadh Colonizers defaulted in payment of instalments of loan. Said Bank thereafter approached Debt Recovery Tribunal, Patna which vide its judgement dated 14.8.2003 passed a decree in favour of said Bank against M/s Magadh Colonizers for a sum of Rs.22,39,166.86P. Thereafter, in the year 2004 a complaint was filed by opposite party no. 2 before CJM, Patna bearing Complaint Case No. 1999(C) of 2004 alleging therein that the documents belonging to him were

fraudulently obtained by the personnels of M/s Magadh Colonizers and deposited in the Bank as security for the purpose of obtaining loan from the Bank. This petitioner being the Branch Manager of State Bank of Bikaner and Jaipur has also been implicated as accused no. 5.

It is submitted by learned counsel for the petitioner that the Bank has been made accused in this case only because a decree has already been obtained against loanee for Rs.22,39,166.86P. The Bank has been made accused with ulterior and bad motive in order to put pressure so that it may not recover the deposits.

On the other hand, learned counsel for opposite party no. 2 submitted that the Bank in collusion with M/s Magadh Colonizers wrongly accepted the documents as security which did not belong to M/s Magadh Colonizers i.e. loanee. Therefore, the Branch Manager of said Bank has also been made accused.

Considered the submission of learned counsel for the petitioners as well as the opposite party no. 2 and perused Annexure- 2 series which are the documents deposited as security for the purpose of obtaining the loan.

Having regard to the facts and circumstances as well as the nature of accusation, it is quite clear that the Bank

has wrongly been implicated as accused with ulterior and bad motive. The complainant has actually set up this case in order to avoid the payment of decreed amount.

In the result , this application is allowed and the impugned order of cognizance dated 28.12.2005 passed by Sri Saroj Kumar, Judicial Magistrate, Patna in Complaint Case No. 1999(C)/2004 is, hereby, quashed but in respect of this petitioner only.

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**(Ghanshyam Prasad, J.)**

